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2 **UNITED STATES DISTRICT COURT**
3 **DISTRICT OF NEVADA**
4

5 SECURITIES AND EXCHANGE
6 COMMISSION,

7 Plaintiff,

8 vs.

9 JOHN F. THOMAS [aka JOHN RODGERS,
10 JONATHAN WEST, JOHN FRANK, and
11 JOHN MARSHALL], THOMAS BECKER,
12 DOUGLAS MARTIN, PAUL HANSON,
13 DAMIAN OSTERTAG, EINSTEIN SPORTS
14 ADVISORY, LLC, QSA, LLC,
15 VEGAS BASKETBALL CLUB, LLC,
16 VEGAS FOOTBALL CLUB, LLC,
17 WELLINGTON SPORTS CLUB, LLC,
18 WELSCORP, INC., and EXECUTIVE
19 FINANCIAL SERVICES, INC.,

20 Defendants.
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23

Case No. 2:19-cv-01515-APG-VCF

**ORDER GRANTING FINAL
JUDGMENT AS TO JOHN F. THOMAS,
AKA JOHN RODGERS, JONATHAN WEST,
JOHN FRANK, AND JOHN MARSHALL**

[ECF No. 94]

24 This matter came before the Court upon Plaintiff Securities and Exchange Commission's
25 ("SEC") Motion for Default Judgments against Defendants: (1) John F. Thomas, aka John
26 Rodgers, Jonathan West, John Frank, and John Marshall; (2) Thomas Becker; (3) Einstein Sports
27 Advisory, LLC; (4) QSA, LLC; (5) Vegas Basketball Club, LLC; (6) Vegas Football Club, LLC;
28 (7) Wellington Sports Club, LLC; (8) Welscorp, Inc.; (9) Paul Hanson; and (10) Executive
29 Financial Services, Inc., under Federal Rule of Civil Procedure 55(b). The Court having
30 considered the memoranda and evidence filed by the parties, and all other argument and
31 evidence presented to it, and good cause appearing therefor, GRANTS the SEC's Motion and

1 enters this Final Judgment against John F. Thomas, aka John Rodgers, Jonathan West, John
2 Frank, and John Marshall (“Defendant”).

3 I.

4 I HEREBY ORDER that Defendant is permanently restrained and enjoined from
5 violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the
6 “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R.
7 § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or
8 of any facility of any national securities exchange, in connection with the purchase or sale of any
9 security:

- 10 (a) to employ any device, scheme, or artifice to defraud;
- 11 (b) to make any untrue statement of a material fact or to omit to state a material fact
12 necessary in order to make the statements made, in the light of the circumstances
13 under which they were made, not misleading; or
- 14 (c) to engage in any act, practice, or course of business which operates or would
15 operate as a fraud or deceit upon any person.

16 I FURTHER ORDER that, as provided in Federal Rule of Civil Procedure 65(d)(2), the
17 foregoing paragraph also binds the following who receive actual notice of this Final Judgment by
18 personal service or otherwise: (a) Defendant’s officers, agents, servants, employees, and
19 attorneys; and (b) other persons in active concert or participation with Defendant or with anyone
20 described in (a).

21 II.

22 I FURTHER ORDER that Defendant is permanently restrained and enjoined from
23 violating Section 17(a) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)]

1 in the offer or sale of any security by the use of any means or instruments of transportation or
2 communication in interstate commerce or by use of the mails, directly or indirectly:

- 3 (a) to employ any device, scheme, or artifice to defraud;
- 4 (b) to obtain money or property by means of any untrue statement of a material fact
5 or any omission of a material fact necessary in order to make the statements
6 made, in light of the circumstances under which they were made, not misleading;
7 or
- 8 (c) to engage in any transaction, practice, or course of business which operates or
9 would operate as a fraud or deceit upon the purchaser.

10 I FURTHER ORDER that, as provided in Federal Rule of Civil Procedure 65(d)(2), the
11 foregoing paragraph also binds the following who receive actual notice of this Final Judgment by
12 personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and
13 attorneys; and (b) other persons in active concert or participation with Defendant or with anyone
14 described in (a).

15 III.

16 I FURTHER ORDER that Defendant is permanently restrained and enjoined from
17 violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the
18 absence of any applicable exemption:

- 19 (a) Unless a registration statement is in effect as to a security, making use of any
20 means or instruments of transportation or communication in interstate commerce
21 or of the mails to sell such security through the use or medium of any prospectus
22 or otherwise;
- 23

1 (b) Unless a registration statement is in effect as to a security, carrying or causing to
2 be carried through the mails or in interstate commerce, by any means or
3 instruments of transportation, any such security for the purpose of sale or for
4 delivery after sale; or

5 (c) Making use of any means or instruments of transportation or communication in
6 interstate commerce or of the mails to offer to sell or offer to buy through the use
7 or medium of any prospectus or otherwise any security, unless a registration
8 statement has been filed with the Commission as to such security, or while the
9 registration statement is the subject of a refusal order or stop order or (prior to the
10 effective date of the registration statement) any public proceeding or examination
11 under Section 8 of the Securities Act [15 U.S.C. § 77h].

12 I FURTHER ORDER that, as provided in Federal Rule of Civil Procedure 65(d)(2), the
13 foregoing paragraph also binds the following who receive actual notice of this Final Judgment by
14 personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and
15 attorneys; and (b) other persons in active concert or participation with Defendant or with anyone
16 described in (a).

17 IV.

18 I FURTHER ORDER that under Section 21(d)(5) of the Exchange Act [15 U.S.C.
19 § 78u(d)(5)], Defendant is permanently restrained and enjoined from directly or indirectly,
20 including but not limited to, through any entity owned or controlled by him, participating in the
21 issuance, purchase, offer, or sale of any security in an unregistered offering provided, however,
22 that such injunction shall not prevent him from purchasing or selling securities for his own
23 personal account.

1 I FURTHER ORDER that, as provided in Federal Rule of Civil Procedure 65(d)(2), the
2 foregoing paragraph also binds the following who receive actual notice of this Final Judgment by
3 personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and
4 attorneys; and (b) other persons in active concert or participation with Defendant or with anyone
5 described in (a).

6 V.

7 I FURTHER ORDER that Defendant is jointly and severally liable with Thomas Becker
8 for disgorgement of \$8,053,285.75, representing net profits gained as a result of the conduct
9 alleged in the Complaint, together with prejudgment interest thereon in the amount of
10 \$403,152.99, and a civil penalty in the amount of \$400,000 under Section 20(d) of the Securities
11 Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), for a
12 total of \$8,856,438.74, due to the Securities and Exchange Commission within 30 days after
13 entry of this Final Judgment.

14 Defendant may transmit payment electronically to the Commission, which will provide
15 detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly
16 from a bank account via Pay.gov through the SEC website at
17 <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank
18 cashier's check, or United States postal money order payable to the Securities and Exchange
19 Commission, which shall be delivered or mailed to

20 Enterprise Services Center
21 Accounts Receivable Branch
22 6500 South MacArthur Boulevard
23 Oklahoma City, OK 73169

1 and shall be accompanied by a letter identifying the case title, civil action number, and name of
2 this Court; John F. Thomas, aka John Rodgers, Jonathan West, John Frank, and John Marshall as
3 a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

4 Defendant shall simultaneously transmit photocopies of evidence of payment and case
5 identifying information to the Commission's counsel in this action. By making this payment,
6 Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part
7 of the funds shall be returned to Defendant.

8 The Commission may enforce the Court's judgment for disgorgement and prejudgment
9 interest by using all collection procedures authorized by law at any time after 30 days following
10 entry of this Final Judgment.

11 The Commission may enforce the Court's judgment for penalties by the use of all
12 collection procedures authorized by law at any time after 30 days following entry of this Final
13 Judgment. Defendant shall be liable to pay post judgment interest on any amounts due after 30
14 days of the entry of this Final Judgment pursuant to 28 U.S.C. § 1961. The Commission shall
15 hold the funds, together with any interest and income earned thereon (collectively, the "Fund"),
16 pending further order of the Court.

17 The Commission may propose a plan to distribute the Fund subject to the Court's
18 approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund
19 provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain
20 jurisdiction over the administration of any distribution of the Fund and the Fund may only be
21 disbursed pursuant to an Order of the Court.

22 Regardless of whether any such Fair Fund distribution is made, civil penalties pursuant to
23 this Judgment shall be treated as penalties paid to the government for all purposes, including all

1 tax purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not, after
2 offset or reduction of any award of compensatory damages in any Related Investor Action based
3 on Defendant's payment of disgorgement in this action, argue that he is entitled to, nor shall he
4 further benefit by, offset or reduction of such compensatory damages award by the amount of
5 any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court
6 in any Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days
7 after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this
8 action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund,
9 as the Commission directs. Such a payment shall not be deemed an additional civil penalty and
10 shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For
11 purposes of this paragraph, a "Related Investor Action" means a private damages action brought
12 against Defendant by or on behalf of one or more investors based on substantially the same facts
13 as alleged in the Complaint in this action.


14 VI.

15 I FURTHER ORDER that this Court shall retain jurisdiction of this matter for the
16 purposes of enforcing the terms of this Final Judgment.

17 VII.

18 There being no just reason for delay, under Rule 54(b) of the Federal Rules of Civil
19 Procedure, the Clerk is ordered to enter this Final Judgment without further notice.

20 DATED: November 20, 2020

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22 _____
23 ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE